

TIMOTHY COURCHINE
United States Attorney
District of Arizona
AMY C. CHANG
Arizona State Bar No. 027566
RAYMOND K. WOO
Arizona State Bar No. 023050
M. BRIDGET MINDER
Arizona State Bar No. 023356
Assistant United States Attorneys
Two Renaissance Square
40 N. Central Ave., Suite 1800
Phoenix, Arizona 85004
Telephone: 602-514-7500
Email: amy.chang@usdoj.gov
Email: raymond.woo@usdoj.gov
Email: bridget.minder@usdoj.gov

JOHN EISENBERG
Assistant Attorney General
National Security Division
LESLIE C. ESBROOK
New York State Bar No. 5406301
District of Columbia Bar No. 1670737
CHRISTOPHER M. COOK
District of Columbia Bar No. 90013354
Trial Attorneys
Counterintelligence and Export Control Section
950 Pennsylvania Ave, NW
Washington, DC 20530
Email: Leslie.Esbrook@usdoj.gov
Email: Christopher.Cook7@usdoj.gov
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Peter Biar Ajak,

Defendant.

CR-24-00394-PHX-SPL-002

**UNITED STATES' REPLY IN
SUPPORT OF ITS OBJECTION
TO DRAFT PRESENTENCE
INVESTIGATION REPORT**

In his Response (Doc. 173), defendant Peter Biar Ajak argues he was not an organizer and leader of the conspiracy because (1) he was involved in the conspiracy for

1 only four months; (2) other co-conspirators “were essential” to the scheme; and (3) his
 2 participation was not for his own benefit. These contentions are inaccurate, unpersuasive,
 3 or both. Regardless of when defendant joined the conspiracy—or who else was involved
 4 or benefited from the scheme—defendant was the clear leader. For the reasons discussed
 5 below and in the government’s Objection (Doc. 170), the Court should reject defendant’s
 6 arguments and impose a two-level Aggravating Role enhancement.

7 **I. Four-month participation does not diminish defendant’s aggravated role.**

8 Defendant argues that because he did not become involved in the conspiracy until
 9 November 2023, he could not have served as a leader or organizer. (Doc. 173 at 3-4.) He
 10 claims that his four-month participation in the scheme makes him a “sacrificial pawn,
 11 rather than a leader.” (*Id.*) Such an assertion, however, is meritless. As an initial matter,
 12 defendant’s participation was not isolated, fleeting, or short-lived. Rather, he engaged
 13 repeatedly and continuously with the UCs, his co-defendant, and others for at least four
 14 months to illegally procure and export weapons to start a coup in South Sudan.

15 Furthermore, neither the Sentencing Guidelines nor the commentary to § 3B1.1
 16 require a defendant to serve as a leader or organizer for any minimum amount of time to
 17 qualify for the enhancement. *See* U.S.S.G. § 3B1.1; *see also United States v. Romer*, 797
 18 Fed. App’x 192, 197-98 (6th Cir. 2019) (holding that U.S.S.G. § 3B1.1 contains no
 19 “temporal factor in determining whether the enhancement applies,” and upholding a three-
 20 level enhancement when defendant served as a manager or supervisor for only one day);
 21 *cf. United States v. Trigg*, 119 F.3d 493, 503-04 (7th Cir. 1997) (upholding district court’s
 22 denial of defendant’s requested minor role adjustment when defendant—who was
 23 “involved in the conspiracy for only part of its total life”—was nevertheless “fully
 24 involved” during the time of his participation). Thus, even if defendant was involved in
 25 only a portion of the total life of the charged conspiracy (i.e., four of the twelve months
 26
 27
 28

1 charged in the Superseding Indictment), the extent and degree of his participation amply
 2 support the enhancement.¹ (*See* Doc. 170 at 3-7.)

3 **II. Participation by others does not diminish defendant’s aggravated role.**

4 Defendant next argues that other individuals were “essential to the recruiting,
 5 planning, concealing, and execution of the weapons purchase,” and that the conduct of
 6 these other individuals diminishes his own role in the offense. (Doc. 173 at 4.) Defendant’s
 7 argument ignores that conspiracies necessarily involve multiple people who are essential
 8 to the conspiracy but are not leaders. Defendant’s specific claims are unpersuasive for the
 9 following reasons:

- 10 • *Recruiting the financier.* First, defendant argues he “did not recruit the
 11 funder for the project.” (Doc. 173 at 4.) Even assuming this is true,
 12 defendant met with the financier; signed a Donation Agreement with the
 13 financier; prepared a fictitious report regarding his purported disbursements
 14 for the financier; and most importantly, spent the financier’s money on
 15 export-controlled weapons. (Doc. 170 at 4; *see also* Doc. 60 at 10-11.)
- 16 • *Concealing the payments.* Defendant next claims he “did not devise a plan
 17 to conceal the source of the money.” (Doc. 173 at 4.) This assertion is
 18 inaccurate. Defendant directed the UCs to prepare a fake security services
 19 invoice to conceal the transaction (and provided the specific language used
 20 in the invoice); signed the fake invoice to mislead the banks; and structured
 21 the payments so as to “avoid a bank review.”² (Doc. 170 at 4-5.)

22
 23
 24 ¹ In addition, as noted in the government’s Objection (Doc. 170 at 3-4), Keech’s
 25 early efforts to complete a purchase and export with the UCs had stalled by fall 2023; it
 26 was not until defendant’s involvement that the project gained funding and momentum. *See*
United States v. Motz, 936 F.2d 1021, 1026 (9th Cir. 1991) (affirming two-level upward
 adjustment when district court found defendant was the leader of the conspiracy because
 “without [defendant] there would not have been financial backing for the operation”).

27 ² During his post-arrest interview, defendant admitted that “[he] asked [UC-1] to
 28 make a different contract,” and acknowledged that while it was “both of our ideas,” he
 provided the language for the fake invoice. (Bates 5198; 11734 – 883.)

- 1 • *Coordinating the meetings.* Defendant further asserts he did not coordinate
2 the planning and strategy meetings, which were hosted at another
3 individual's office. (Doc. 173 at 4.) Regardless of the meetings' location,
4 defendant participated in these meetings, and engaged in dozens of other
5 telephone calls, in-person meetings, and text messages with the UCs
6 regarding the charged weapons export scheme. (Doc. 170 at 3.)
- 7 • *False contracts and bank transfers.* Finally, defendant claims that "[f]alse
8 contracts were drafted" and "[b]ank transfers were arranged" as "directed by
9 others." (Doc. 173 at 4.) What he omits, however, is that the "false contracts
10 were drafted" *with language supplied by defendant and that defendant signed*
11 *these contracts himself.*³ Similarly, "bank transfers were arranged" *at*
12 *defendant's direction and were used to pay the UCs, his co-defendant, and*
13 *himself and his family.* (Doc. 170 at 5-6.)

14 In sum, even assuming that other individuals participated in various aspects of the
15 scheme, their participation does not diminish defendant's central role in the planning,
16 organizing, and commission of the offense.

17 **III. Conditions in South Sudan do not diminish defendant's aggravated role.**

18 Finally, defendant describes the difficult history and challenging present and future
19 of South Sudan. (Doc. 173 at 5-8.) He contends that he participated in the scheme not for
20 his own benefit, but to improve the lives of the South Sudanese people. Two things,
21 however, can be true. It can be true that South Sudan has and continues to face long-term
22 challenges and inequities that are painfully borne by the South Sudanese people; it can also
23

24
25
26 ³ During his post-arrest interview, defendant admitted that in addition to the fake
27 security services invoice described above, he also "convinced somebody to ... give [him]
28 money" after he told the financier he "wanted to restore human rights, to engage in
humanitarian activities, and civic activities in South Sudan." Defendant explained that the
financier did not "know what the real effort [was]," adding, "There is the part that I have
told him. And there is one that I am doing." (Bates 5198; 11734 – 883.)

1 be true that in seeking to improve their lives, defendant simultaneously sought to become
2 the new “head of government” and anticipated a larger share of the fruits of the crime.

3 During his post-arrest interview, defendant explained that he intended to return to
4 South Sudan to “agitate” for a popular uprising and armed takeover of the country. He also
5 detailed his plan for inciting the popular uprising. He noted that the current South Sudanese
6 government had made it known that it did not have tear gas or rubber bullets, and that the
7 military would respond to popular protests with live ammunition. Defendant therefore
8 “wanted ... to create a situation where people were going to protest,” and anticipated that
9 the South Sudanese government “would probably shoot people down,” resulting in outrage
10 that would “spark a revolution.” He explained that the weapons obtained from the UCs
11 would then be used to arm elements of the military that would fight to support the
12 protestors. (Bates 5198; 11734-883.)

13 Thus, had his plans unfolded as he intended, defendant’s ascension to power could
14 have potentially contributed to armed violence, displacement, and destabilization
15 throughout South Sudan, the very concerns animating the export controls in the first place.
16 *See, e.g.,* United Nations Security Council, Resolution 2428 and subsequent renewals
17 (imposing an arms embargo on South Sudan and expressing “concern over the continued
18 intensification of violence prolonging the political, security, economic, and humanitarian
19 crisis in most parts of the country”; the “increased violence between armed groups ...
20 which has killed and displaced thousands”; and the “threat to peace and security in South
21 Sudan arising from the illicit transfer, destabilizing accumulation and misuse of small arms
22 and light weapons”). Defendant’s Response fails to acknowledge these consequences.
23 Because defendant—irrespective of his long-term goals for the country—nevertheless
24 anticipated a larger share of the fruits of the crime, this factor continues to weigh in favor
25 of a leadership role enhancement.

26 //

27 //

28

1 For the foregoing reasons, the government respectfully asks the Court to include a
2 two-level upward adjustment for defendant's aggravated role in the offense.

3 Respectfully submitted this 14th day of October, 2025.

4 TIMOTHY COURCHINE
5 United States Attorney
6 District of Arizona

7 s/Amy C. Chang
8 AMY C. CHANG
9 RAYMOND K. WOO
10 M. BRIDGET MINDER
11 Assistant U.S. Attorneys

12 LESLIE C. ESBROOK
13 CHRISTOPHER M. COOK
14 Trial Attorneys, National Security Division

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that on October 14, 2025, I electronically transmitted the attached
17 document to the Clerk's Office using the CM/ECF System for filing a copy to the following
18 CM/ECF registrants:

19 Kurt Altman, *Attorney for Peter Biar Ajak*

20 s/Alexandria Gaulin
21 U.S. Attorney's Office
22
23
24
25
26
27
28